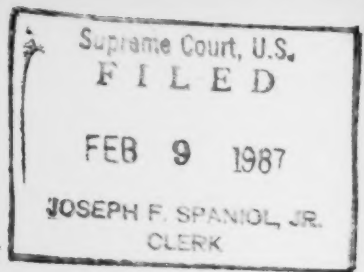


86 - 1324 (1)



No. _____

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1987

LAVOYD WAYNE "Bill" HARDIN

Petitioner.

v.

CLIFFORD F. MCMASTER

Respondent.

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Lavoyd Wayne "Bill" Hardin Pro. se.
Lavoyd Wayne "Bill" Hardin, pro
se

Route 1, Box 127A
DeLeon, Texas 76444

Telephone: (817) 893-2686

22/1/87

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY
AT THE TIME OF FILMING. IF AND WHEN A
BETTER COPY CAN BE OBTAINED, A NEW FICHE
WILL BE ISSUED.

QUESTIONS
PRESENTED FOR REVIEW

1. Whether the Bankruptcy Court, The United States District Court, and the Fifth Circuit Court is guilty of a conspiracy to Defraud.

2. Whether the petitioner was denied due process of law under the United States Constitution, and the Texas Constitution.

3. Whether the petitioner was denied his homestead, and his business homestead rights under Article 16, Section 50 and 51 of the Texas Constitution.

4. Whether J. A. Hardin is the only legal owner of this property.

5. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court and the United States

District Court denied petitioner and J. A. Hardin the right to have the assistance of counsel for their defense.

6. Whether the Fifth Circuit Court abused its discretion by not ruling the Trustee, the Bankruptcy Judge and the United States District Judge was compelled to accept full tender payment.

7. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge cannot take the State of Texas land as one of the petitioner's assets.

8. Whether the Fifth Circuit Court abused its discretion by not ruling the 220th District Judge Andrew Campbell was prejudice.

9. Whether the Fifth Circuit Court abused its discretion by not ruling the three Orders signed November 7, 1983 was a forgery.

10. Whether St. Clair Newbern, III owes petitioner Eighteen Hundred Dollars.

11. Whether the United States District Court abused its discretion by not going through proper Judicial procedure by holding petitioner and J. A. Hardin's trial on the same day that the bankruptcy court held the trial.

12. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court errored in trying to break petitioner's contract with the Veterans' Land Board of the State of Texas.

13. Whether the Fifth Circuit Court abused its discretion by not ruling

that the Bankruptcy Court and the United States District Court erred in granting to petitioner's ex-wife, Joan M. Hardin, Foster, too much damages in a Chapter 13 case and awarding too much money to Gilbert and Colvin for attorney's fees.

14. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge abused their discretion by not ruling that the deed from the Veteran's Land Board to J. A. Hardin was valid and the Bankruptcy Judge, Trustee, and the United States District Judge was compelled to accept full tender payment from petitioner and J. A. Hardin.

15. Whether the United States District Judge, Eldon B. Mahon used duress and undue influence when he threat-

ened to put J. A. Hardin in jail if J. A. Hardin did not sign his deed over to Clifford F. McMaster, when J. A. Hardin had full tender payment in hand.

16. Whether St. Clair Newbern betrayed the trust of petitioner as his attorney.

17. Whether St. Clair Newbern betrayed his oath as a federal attorney.

18. Whether St. Clair Newbern betrayed the law and petitioner by entering petitioner business homestead in a Chapter (13) thirteen bankruptcy case.

19. Whether Judge John Flowers betrayed his oath of office by allowing the Veterans Land Board property to be entered in this Chapter (13) thirteen case.

20. Whether Judge John Flowers, Judge Michael A. McConnell, Judge David

O. Belew, and Judge Eldon B. Mahon abused their oath to their high office by defying Article VI, Clause (2) of the United States Constitution.

21. Whether Clifford F. McMaster was legally appointed trustee in a Chapter (13) thirteen case.

22. Whether Judge John Flowers was within the law when he converted the Chapter (13) thirteen case to a Chapter (7) Seven case.

23. Whether Judge John Flowers, Judge Michael A. McConnell, Judge David O. Belew, Judge Eldon B. Mahon, Gilbert and Colvin, St. Clair Newbern, III, and Clifford F. McMaster is guilty of a conspiracy to commit fraud for the purpose of enrichment.

24. Whether Clifford F. McMaster misapplied fiduciary property.

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<u>Hardin v. Hardin</u> , 584 South Western Reporter (2d) Series 384 1979 . .	
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In The
SUPREME COURT OF THE UNITED STATES
October Term, 1987

NO. _____

LAVOYD WAYNE "Bill" HARDIN

Petitioner

v.

CLIFFORD F. MCMASTER

Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

The petitioner, Lavoyd Wayne "Bill" Hardin, respectfully prays that a writ of Certiorari be issued to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on November 20, 1986.

OPINION BELOW

The fifth Circuit Court of Appeals was right when they said they lack jurisdiction in this case, in fact no State Court, or Federal Court had jurisdiction over all the cases, that petitioner has been forced to defend in the past eleven years, but the Supreme Court of the United States has jurisdiction over all these cases, and can straighten out this mess.

JURISDICTION

Article 111, Section 2. (1)

CONSTITUTIONAL PROVISION INVOLVED

Article VI (2) Amendments 5, 6 and 14th of the United States Constitution

Article 1. Section 19; Article 5, Section 11; Article 16, Section 49-50 and 51, of the Texas Constitution.

STATEMENT OF THE CASE

Petitioner, Lavoyd Wayne "Bill" Hardin filed this case for damages against

Clifford F. McMaster, respondent, for misapplication of fiduciary property in the 220th District Court, Comanche County Texas, where petitioner lives, respondent had no jurisdiction over this property, the state and federal judges or courts had no jurisdiction over this property, this property belonged to the Veterans Land Board of the State of Texas, which petitioner being an honorable discharged Veteran of the United States of America Armed forces, had a valid contract.

CONCLUSION OF LAW

By the letter of the law; for a contract to be binding and enforceable, it must fulfill four legal requirements; mutual assent or consent, competent parties lawful consideration, and valid subject matter.

A contract that meets these requirements and has been fully executed on both sides will not be disturbed by the courts

and the courts has no jurisdiction over this contract when both parties are in full agreement.

REASON FOR GRANTING THE WRIT

When petitioner denied his constitutional right of due process of law under both the United States Constitution and the Texas Constitution.

Petitioner has been the victim in the past eleven years by numerous judicial errors and has been victimized in the States and Federal Courts. The Supreme Court, in the Clarene Gideon, held unanimously that he had the right to counsel.

The Supreme Court ruled in the Scottsboro case that counsel must be supplied if the results could be a prison sentence whatever the label attached to the misconduct, (also see the case of *Argsinger v. Hamlin*).

CONCLUSION

For the foregoing reasons, petitioner, Lavoyd Wayne "Bill" Hardin, respectfully requests that a writ of certiorari issue to review the judgement of the United States Court of Appeals for the Fifth Circuit.

Respectfully Submitted,

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin

Rt. 1, Box 127A

DeLeon, Texas 76444

Telephone (817) 893-2686

Dated *February 2nd*, 1987.

AFFIDAVIT
PROOF OF SERVICE

I, Layoyd Wayne "Bill" Hardin, petitioner, hereby certify that a true and correct copy of this petition was mailed by first class to respondent's attorney, Gilbert and Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102. And all interested parties below:

Clifford F. McMaster, 307 Capital
National Bank Building, Fort Worth,
Texas 76102

J. A. Hardin, Route One, Fayette-
ville, Tennessee 37334

Ben Sudderth, 109 West Grand, Coman-
che, Texas 76442

St. Clair Newbern, III, 1116 River
Plaza Tower, 1701 River Run Road,
Fort Worth, Texas 76107

Joan M. Hardin Foster, 904 Burleson
Street, DeLeon, Texas 76444

Roy Hufstutler, 1001 North Houston
Street, Comanche, Texas 76442

James Robert Authur, W. Highland,

Comanche, Texas 76442

Signed this 2nd day of February,
1987.

Lavoyd Wayne "Bill" Hardin

Lavoyd Wayne "Bill" Hardin

Route 1, Box 127A

DeLeon, Texas 76444

Phone No. (817) 893-2686

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 86-1545
Summary Calendar

In the Matter of: LAVOYD W. "BILL"
HARDIN, Debtor, LAVOYD WAYNE "BILL"
HARDIN,

Plaintiff-Appellant

versus

CLIFFORD F. MCMASTER

Defendant-Appellee

Appeal from the United States Dis-
trict Court for the Northern
District of Texas
(Docket No. CA-4-86-493-K)

Before RUBIN, RANDALL, and HIGGINBO-
THAN, Circuit Judges.

PER CURIAM:

In this protracted bankruptcy
proceedings, Lavoyd Wayne "Bill" Har-
din, who has filed a number of pre-

vious appeals, now seeks to appeal a district court order denying remand of related proceedings to state court, from which the related proceedings had been removed pursuant to 28 U. S. C. 1452.

We lack jurisdiction to review an order denying remand. In re Rayburn Enterprises, Inc., 781 F. 2d 501 (5th Cir. 1986). This decision follows the command of U. S. C. 1452 (b), which expressly provides:

An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.

While Hardin also now seeks to have this court review all of the prior proceedings in this matter, those proceedings have either been previously reviewed by us or are not reviewable because they are interlocutory.

For these reasons, we DISMISS the
appeal.

In The United States Court of Appeals
For The Fifth Circuit

No. 86-1545

Lavoyd Wayne "Bill" Hardin,
Plaintiff - Appellant
Versus
Clifford F. McMaster
Defendant - Appellee

Notice of Appeal

I, Lavoyd Wayne "Bill" Hardin, pro-
se, appeal Case No. 86-1545 (that was
dismissed November 20, 1986 by the
Fifth Circuit Court) to the Supreme
Court of the United States of America
in Washington, D. C. This case is
appealed to the Supreme Court of the
United States under the provisions of
the 5th, 6th, and 14th amendments and
Article III and Article VI, Section (2)

of the United States Constitution.

Lavoyd Wayne "Bill" Hardin pro se

Lavoyd Wayne "Bill" Hardin, pro se
Route 1, Box 127A
DeLeon, Texas 76444

Phone No. (817) 893-2686

Affidavit
Proof of Service

I, Lavoyd Wayne "Bill" Hardin, certify that a copy of this Notice of Appeal under the penalty of perjury was mailed by First Class to Defendant Clifford F. McMaster's attorney, Gilbert & Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102, and all interested parties listed below:

Gilbert & Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102

Clifford F. McMaster, 307 Capital National Bank Building, Fort Worth, Texas 76102

J. A. Hardin, Route One, Fayetteville
Tennessee 37334

Ben Sudderth and Keith Woodley of
Sudderty, Woodley and Dudley 109 W.
Grand, Comanche, Texas 76442

St. Clair Newbern, III, 1116 River
Plaza Tower, 1701 River Run Road,
Fort Worth, Texas 76107

Joan M. Foster, 904 Burleson Street,
DeLeon, Texas 76444

Roy Hufstutler, 1001 N. Houston
Street, Comanche, Texas 76442

James Robert Arthur, W. Highland,
Comanche, Texas 76442

Signed this 16th day of December,
1986.

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin

Filed December 19, 1986 in the U. S.
Court of Appeals for the Fifth
Circuit

2

Supreme Court, U.S.
FILED
MAR 12 1987
JOSEPH F. SPANIOLO, JR.
CLERK

NO. 86-1324

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1986

IN THE MATTER OF
LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN" DEBTOR,

LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN",

PETITIONER.

VERSUS

CLIFFORD F. McMASTER, TRUSTEE

RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION

JOSEPH W. COLVIN
GILBERT & COLVIN
1035 INTERFIRST TOWER
801 CHERRY STREET
FORT WORTH, TEXAS 76102
(817)336-7883

ATTORNEYS FOR RESPONDENT,
CLIFFORD F. McMASTER, TRUSTEE

16 pgs



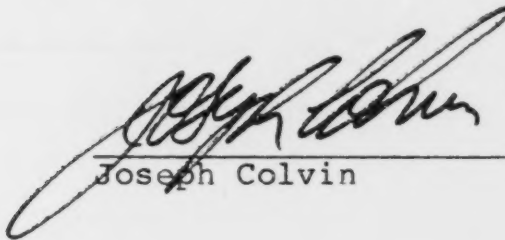
QUESTIONS PRESENTED FOR REVIEW

1. Whether the United States Court of Appeals for the Fifth Circuit erred in affirming the judgment of the United States District Court for the Northern District of Texas which denied petitioner's appeal of the United States Bankruptcy Court's Order denying remand?

CERTIFICATE OF PARTIES TO THE PROCEEDING

The undersigned counsel of record for
Clifford F. McMaster, Trustee,
Respondent, certifies that the following
are parties to this proceeding:

1. Lavoyd Wayne "Bill" Hardin
2. Clifford F. McMaster



Joseph Colvin

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JUDGMENTS BELOW

FIFTH CIRCUIT APPEALS:

- 84-1037 - judgment of district court
affirmed, 8/22/84
- 84-1250 - dismissed for want of prosecution,
failure to file briefs,
5/22/84
- 84-1396 - appeal dismissed, 9/26/84
- 84-1614 - appeal held frivolous, 12/20/84
- 84-1615 - judgment of district court
affirmed, 12/20/84
- 85-1686 - appeal dismissed, 2/24/86
- 85-1726 - judgment of district court
affirmed, 3/17/86
- 86-1545 - appeal dismissed, 11/20/86

APPEALS TO THE U.S. SUPREME COURT:

- 85-2135 - petition for certiorari denied,
11/17/86

STATEMENT OF JURISDICTION

This court has jurisdiction pursuant
to 28 U.S.C. §1224.

TABLE OF CITATIONS

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<u>Statutes & Regulations</u>	
28 U.S.C. §1452(a)(b)	3
28 U.S.C. §1334(a)(b)(a)	4
28 U.S.C. §2101(c)	7

STATEMENT OF THE CASE

Petitioner's petition for certiorari results from eight (8) previously unsuccessful appeals in the United States Court of Appeals for the Fifth Circuit. The prior appeals bear the following numbers: 84-1037, 84-1250, 84-1396, 84-1614, 84-1615, 85-1686, 85-1726, (Cert. denied U.S. Supreme Court 85-2135) and 86-1545. This petition for certiorari is based on the dismissal of Appeal No. 86-1545. This appeal was from an order denying remand of related proceedings to the state court, from which the related proceedings had been removed pursuant to 28 U.S.C. §1452.

SUMMARY OF ARGUMENT

The petition for certiorari should be denied because petitioner has not

raised any issues attacking the judgment that is the basis for the petition. Instead, he raises matters heretofore considered in prior appeals to the Fifth Circuit, which were decided adverse to petitioner and which no petition for writ of certiorari was filed or if filed was denied, and complains generally about the outcome of every proceeding in which he has been a party throughout the last decade, whether in the Courts of the State of Texas, the United States Bankruptcy Court, the United States District Court for the Northern District of Texas or the United States Court of Appeals for the Fifth Circuit. Petitioner is raising the same issues previously raised in proceeding no. 85-2135 and denied by this Court.

ARGUMENT

This litigation, seeking to challenge a judgment dismissing an appeal from an order denying remand of related proceedings to the state court, constitutes the latest in a long series of efforts by Lavoyd Wayne "Bill" Hardin to harass the Trustee of his estate as well as to waste judicial time and resources by continuing to perfect frivolous and unmeritorious appeals. The judgment which forms the basis for this petition may be found at pages 9-12, Petitioner's Supplemental Appendix.

The United States Code, at 28 U.S.C. §1452 provides that:

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power,

to the District Court for the District where such civil action is pending, if such District Court has jurisdiction of such claim or cause of action under Section 1334 of this Title.

(b) The Court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise (emphasis added).

This statute taken alone would appear to eliminate any appeal so long as the District Court had jurisdiction as provided in section (a) thereof. The inquiry is limited therefore to whether the District Court would have had jurisdiction pursuant to 28 U.S.C. §1334 as it denied remand.

28 U.S.C. §1334 among other things, provided:

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11."

The proceeding that is the subject of the appeal on its face shows that it is a claim of misapplication of property by a trustee. Such property being property of the estate subject to District Court exclusive jurisdiction as provided under 28 U.S.C. §1334(d).

"(d) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of the estate."

The District Court had jurisdiction and the elements necessary under 28 U.S.C. §1452(a) were satisfied. The appeal,

therefore, does not lie and the decision by the Bankruptcy Court not to remand is not reviewable by appeal. This was recognized by the United States District Court for the Northern District of Texas when it denied Appellant's appeal of the Bankruptcy Court's Order of April 11, 1986, in accordance with 28 U.S.C. §1452(b), as well as by the United States Court of Appeals for the Fifth Circuit when it denied petitioner's appeal of the District Court's Order of July 16, 1986, in accordance with 28 U.S.C. §1452(b).

The petition for certiorari should be denied as the petitioner has not raised any issues germane to the order appealed. Respondent would show that the twenty-four (24) questions presented for review are moot.

The petition for certiorari should further be denied as petitioner is

raising stale, unsuccessful appeals in conjunction with those alleged to form the basis for this petition. The petition for certiorari is only timely with respect to the orders of July 16, 1986 denying remand by the U.S. District Court pursuant to 28 U.S.C. §2101(c).

Petitioner claims that he has been denied his constitutional right to the assistance of counsel for his defense. Petitioner cites only criminal case authority for this proposition, and fails to recognize that no such right obtains in civil litigation. Furthermore, petitioner was represented by counsel in his voluntary petition under the Bankruptcy Code and was represented by counsel in Appeal No. 84-1037 in the Fifth Circuit. Petitioner then dismissed his bankruptcy counsel and voluntarily elected to repre-

sent himself in these proceedings. Petitioner's claim that he was denied counsel relates to a proceeding to which he was not a party and which proceeding was appealed to the Fifth Circuit. Case No. 84-1396 was dismissed as moot and no writ was filed in this court.

Respondent would show that the twenty-four (24) questions presented for review by petitioner were addressed and rejected by the United States Court of Appeals for the Fifth Circuit in one or more of the aforementioned appeals, which raised issues either identical to or similar to those set forth by petitioner in the petition for certiorari.

Respondent would show that the questions presented for review are the same questions presented for review in Cause No. 85-2135, petition for writ of

certiorari in the Supreme Court of the United States, October Term, 1986 and which were rejected by this Honorable Court when it denied the prior petition for writ of certiorari.

Respondent would show that the petitioner has therefore not raised any issues germane to the judgments appealed, but is using the petition for certiorari in an effort to bring before this court matters heretofore decided adversely to petitioner by the United States Court of Appeals for the Fifth Circuit. The petition for certiorari should, therefore, be denied.

CONCLUSION

For the reasons set forth above, the petition for certiorari should be denied.

Respectfully submitted,

By: 

Joseph Colvin

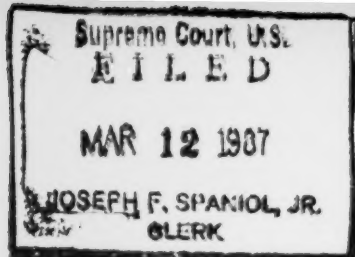
1035 InterFirst Tower
801 Cherry Street
Fort Worth, Texas 76102

Telephone (817) 336-7883
State Bar No. 04631000

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing have been served on all counsel of record, by mailing sets of same, on this 10th day of March, 1987.


Joseph Colvin



3
NO. 86-1324

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1986

IN THE MATTER OF
LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN" DEBTOR,

LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN",

PETITIONER.

VERSUS

CLIFFORD F. McMASTER, TRUSTEE

RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT

EXHIBITS DESIGNATED FOR INCLUSION IN
RESPONDENT'S BRIEF IN OPPOSITION

JOSEPH W. COLVIN
GILBERT & COLVIN
1035 INTERFIRST TOWER
801 CHERRY STREET
FORT WORTH, TEXAS 76102
(817)336-7883

ATTORNEYS FOR RESPONDENT,
CLIFFORD F. McMASTER, TRUSTEE

6814



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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 84-1037
Summary Calendar

IN THE MATTER OF LAVOID WAYNE HARDIN
A/K/A "BILL HARDIN", DEBTOR.

JOAN MURLE HARDIN,

Plaintiff-Appellee,

VERSUS

LAVOID WAYNE HARDIN
A/K/A "BILL HARDIN",

Defendant-Appellant.

Appeal from the United States District
court for the Northern District of Texas

(August 22, 1984)

Before JOHNSON, GEE and DAVIS, Circuit
Judges.

PER CURIAM:

The opinion of the district court in
this case is AFFIRMED. See Local Rule
47.6.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1250

IN THE MATTER OF: LAVOYD WAYNE "BILL"
HARDIN
Debtor,
CLIFFORD F. MCMASTER,
Trustee
Plaintiff-Appellee,
versus
LAVOYD WAYNE "BILL"
HARDIN and J. A.
HARDIN,
Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of Texas

CLERK'S OFFICE:

Pursuant to Local Rule 42.3, the
appeal was duly entered dismissed for
want of prosecution for failure of
APPELLANTS TO FILE THEIR BRIEFS within
the time fixed by the rules, this 24th
day of May, 1984.

GILBERT F. GANUCHEAU
Clerk of the United States
Court of Appeals for the
Fifth Circuit

By: _____
Deputy Clerk
FOR THE COURT - BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1396
Summary Calendar

IN THE MATTER OF: LAVOYD WAYNE "BILL"
HARDIN,
Debtor.

LAVOYD WAYNE "BILL" HARDIN,
Plaintiff-Appellant,
versus

CLIFFORD F. McMASTER,
Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas
(September 26, 1984)

Before CLARK, Chief Judge, RUBIN and
GARWOOD, Circuit Judges.

PER CURIAM:

Appellant Lavoyd Wayne "Bill" Hardin
("Bill Hardin") appeals the district
court's order of April 24, 1984 affirming
the bankruptcy court's order of March 9,
1984 which, on application of Clifford F.
McMaster, Trustee of the Lavoyd Wayne Hardin

*Local Rule 47.5 provides: "The
publication of opinions that have of pre-
cedential value and merely decide par-
ticular cases on the basis of
well-settled principles of law imposes
needless expense on the public and bur-
dens on the legal profession." Pursuant
to that Rule, the Court has determined
that this opinion should not be
published.

Bankruptcy Estate (the "Trustee"), did the following: (1) declared null and void the August 24, 1983 assignment by Bill Hardin to J. A. Hardin of Bill Hardin's interest, as purchaser under a September 20, 1955 Texas Veteran's Land Board contract, in a certain 154.3-acre tract of land and the consequent January 6, 1984 deed of such land from the Veteran's Land Board to J. A. Hardin as assignee of the purchaser in such contract; and (2) ordered J. A. Hardin to deed such 154.3-acre tract to the Trustee.

On October 31, 1980 Bill Hardin filed for bankruptcy under Chapter 13. One of the assets scheduled by Bill Hardin was his interest, as purchaser under the referenced Veteran's Land Board contract, in the mentioned 154.3-acre

tract. On June 16, 1982 the bankruptcy court converted the proceeding to one under Chapter 7. On October 13, 1982 the bankruptcy court denied Bill Hardin's motion to convert the proceeding to one under Chapter 11, and on October 27, 1982 the bankruptcy court ruled that Bill Hardin could not claim the 154.3 acres as his homestead. Bill Hardin appealed the referenced October 13, 1982 and October 27, 1982 bankruptcy court orders to the district court, those two proceedings were consolidated before the district court, and on November 30, 1983 the district court in all things affirmed these orders of the bankruptcy court. Bill Hardin appealed to this Court, which affirmed without opinion on August 22, 1984. Joan Murle Hardin v. Lavoyd Wayne Hardin, No. 84-1037.

As noted, Bill Hardin conveyed his interest in the 154.3-acre tract to J. A. Hardin on August 24, 1983, and on January 6, 1984 the Veteran's Land Board deeded the property to J. A. Hardin. After notice and hearing, the bankruptcy court on March 9, 1984 declared void both the August 24, 1983 assignment to J. A. Hardin and the January 6, 1984 deed to him, and likewise ordered J. A. Hardin to convey the 154.3 acres to the Trustee.

According to appellee, the district court on March 9, 1984 ordered J. A. Hardin to execute the deed or appear at a March 20, 1984 hearing to show cause why he should not be held in contempt; appellee also advises that Bill Hardin attempted to appeal the March 9, 1984 district court show cause order to this Court, where the appeal was docketed as

our No. 84-1250 but was dismissed May 24, 1984 for failure of appellants to file briefs.

Appellee, the Trustee, likewise states that on March 14, 1984 J. A. Hardin conveyed the 154.3 acres to the Trustee. Appellant essentially confirms this in his brief. The Trustee likewise states that the Veteran's Land Board has since March 9, 1984 given the Trustee a deed to the 154.3 acres and that the Trustee sold such land pursuant to court order on April 5, 1984.

On April 24, 1984 the district court, on appellant's appeal, affirmed the bankruptcy court's March 9, 1984 order.

Appellant's only point on appeal is that the 154.3 acres was his homestead and that the proceedings were not properly under Chapter 7. Neither contention

appears to have any merit, and both were necessarily resolved against appellant in our above-referenced cause No. 84-1037. Under 11 U.S.C. §§ 521(3), 541(a)(1), and 549, the bankruptcy court's March 9, 1984 order, and the district court's April 24, 1984 order affirming it, would therefore appear to be proper. However, in any event, particularly in light of this Court's affirmance in No. 84-1037 and dismissal of appeal in No. 84-1250, the appeal must be dismissed because appellant, having transferred his interest to J. A. Hardin, has no standing, and subsequent to the complained of March 9, 1984 order, J. A. Hardin has deeded the property to the Trustee, thus mooting the controversy. Hence, appellee's motion to dismiss the appeal should be granted.

Therefore, the appeal is DISMISSED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1614
Summary Calendar

In the Matter of: LAVOYD WAYNE "BILL"
HARDIN, Debtor

LAVOYD WAYNE "BILL" HARDIN,

Plaintiff-Appellant,

versus

CLIFFORD L. McMASTER, Trustee,

Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas

(December 20, 1984)
Before WILLIAMS, JOLLY, and HILL, Circuit
Judges.

PER CURIAM.*

* Local Rule 47.5 provides: "The publica-
tion of opinions that have no precedential
value and merely decide particular cases
on the basis of well-settled principles
of law imposes needless expenses on the
public and burdens on the legal
profession." Pursuant to that Rule, the
court has determined that this opinion
should not be published.

In this appeal appellant, Lavoyd Wayne "Bill" Hardin, is challenging the distribution of proceeds from the sale of 154 acres of land by the trustee in bankruptcy. Particular objection is made to recognition of his divorced wife's secured claim of \$52,048.99.

At the time appellant and his wife divorced, he purchase his wife's community interest in the 154 acres. After one year's payment on the note, no further payments were made. His former wife brought suit in the courts of Texas to accelerate the note and obtained a judgment in the Supreme Court of the State of Texas ordering a sheriff's sale. Because of the bankruptcy, the sale did not take place until the May 1984, sale by the trustee in bankruptcy.

Appellant without any supporting information charges bias and prejudice on

the part of the federal court, and undertakes to challenge the validity of the Texas Supreme Court judgment obtained by his former wife recognizing the lien on the property and accelerating the note. Hardin v. Hardin, 597 S.W.2d 347 (Tex. 1980). Appellant cannot obtain review of that decision in this Court. No colorable constitutional due process claims are stated.

Finally, appellant's claim that he did not receive proper notice under the Bankruptcy Code for the hearing in which the disbursement satisfying the secured claim of his former wife was ordered is negated by the record. Adequate attempts to serve him under the Code were made, and his former attorney was present at the hearing.

The order of this district court states, "The Court is well aware of the

history of appellant's bankruptcy proceedings and his intransigent behavior, which has resulted in numerous delays in several previous appeals to this Court." The accuracy of this statement is well supported by the record in this case. The appeal is frivolous in every respect. The order of the district court upholding the order of the bankruptcy judge providing for disbursements of the proceeds of the sale of the 154 acres of land under Chapter VII of the Bankruptcy Code is affirmed.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1615
Summary Calendar

In the Matter of: LAVOYD WAYNE "BILL"
HARDIN, Debtor.

LAVOYD WAYNE "BILL" HARDIN,

Plaintiff-Appellant,

versus

JAMES ROBERT ARTHUR,

Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas

(December 20, 1984)

Before WILLIAMS, JOLLY, and HILL,
Circuit Judges.

PER CURIAM:*

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

Appellant, Lavoyd Wayne "Bill"

Hardin brought this appeal from an order entered by the bankruptcy court enjoining him from "coming upon, trespassing upon, or otherwise exercising control" over 154 acres of land which he had owned and which had been sold in a bankruptcy sale. Appellant had appealed to this Court for the conversion of his case from Chapter XIII to Chapter VII of the Bankruptcy Code, and he also claims that the bankruptcy court abused its discretion by moving ahead to trial in this matter because of the appeal to the Fifth Circuit of the validity of the trustee's appointment and subsequent conveyance of the real estate. The nature of the appeals to this Court is not clear from the record. Without the slightest informational support, appellant also claims

that he has been "framed", that the trustee in bankruptcy had "lied", and that the bankruptcy court was "harassing" appellant by going ahead with the hearing in the case.

The simple facts are that in the bankruptcy proceeding appellant could not claim these 154 acres as his homestead because his home in DeLeon was his homestead. After the sale appellant entered on the property and planted a crop of alfalfa, and harassed the purchaser of the property who had obtained it in the court-ordered sale. He further admitted to cutting the owner's lock on the gate in order to gain access to the property. Nothing in the record indicates that any stay of the prior decisions of the bankruptcy court had been issued.

The jurisdiction and proper orders of a federal court must be obeyed. There is nothing in this record to indicate that the bankruptcy court has acted improperly at any time throughout this proceeding, that the federal district court has acted erroneously or with an abuse of discretion. Appellant became bankrupt. The proper sale of assets which he owed was carried out. Claims of harassment and bad faith are unsupported in the record. The property in question having been correctly sold by the trustee in bankruptcy, the property no longer belongs to the appellant. Appellant's attempts to exercise continuing claim of ownership and control over the property are an harassment to the owner. The district court was properly within its jurisdiction in enjoining these activi-

ties which were in defiance of the decisions of the court. The district court properly exercised its discretion in affirming. In turn, we affirm.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1686
Summary Calendar

LAVOYD WAYNE HARDIN, a/k/a
BILL HARIN, (sic) Debtor

LAVOYD WAYNE HARDIN, a/k/a
BILL HARDIN,

Plaintiff-Appellant,

versus

GILBERT & COLVIN,

Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas

(February 24, 1986)

Before REAVLEY, HIGGINBOTHAM, and HILL,
Circuit Judges.

PER CURIAM:*

*Local Rule 47.5 provides: "The publica-
tion of opinions that have no preceden-

tial value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

This is the sixth time that appellant, Lavoyd Wayne "Bill" Hardin has perfected an appeal in a matter relating to his bankruptcy estate. See Hardin v. Hardin, No. 84-1250 (5th Cir. May 24, 1984) (dismissed for failure to file briefs); Hardin v. Hardin, No. 84-1037 (5th Cir. Aug. 22, 1984) (per curiam); Hardin v. McMaster, No. 84-1396 (5th Cir. Sept. 26, 1984) (per curiam); Hardin v. McMaster, No. 84-1614 (5th Cir. Dec. 20, 1984) (per curiam); Hardin v. Arthur, No. 84-1615 (5th Cir. Dec. 20, 1984) (per curiam). In the instant appeal Hardin appeals from an order by

the bankruptcy court granting an interim award to the Trustee for attorney's fees, commission and expenses. Hardin's challenge to this award is based on allegations that the trustee, his attorneys, and other have deprived him of "his constitutional right, his life's sweat and labor and ever asset that he has accumulated." This court in prior holdings has determined that these allegations are without legal merit. Finding Hardin's claim to have no conceivable foundation in fact or law we dismiss the appeal. See Windsor v. Pan American Airways, 744 F.2d 1187 (5th Cir. 1984).

Appeal DISMISSED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
CA4-85-342-E

No. 85-1726
Summary Calendar

LAVOYD WAYNE HARDIN,
a/k/a BILL HARDIN,

Plaintiff-Appellant,

versus

GILBERT & COLVIN,

Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas

(March 17, 1986)

Before RUBIN, JOHNSON, and JONES,
Circuit Judges.

PER CURIAM:

The judgment of the district court
is AFFIRMED. See Local Rule 47.6.

Appellant has previously submitted numerous frivolous appeals to this Court. While this Court will not exercise its discretion to impose sanctions on this appeal, further abuse of the appellate process will not be tolerated.

Therefore, appellee's motion for sanctions is DENIED. See Fed. R. App. P. 38.

Costs on appeal are taxed against plaintiff-appellant.

ISSUED AS MANDATE: APR 10, 1986

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

October 6, 1986

Mr. Joseph Colvin
Gilbert & Colvin
1035 InterFirst Tower
Fort Worth, TX 76102

Re: Lavoyd Wayne "Bill" Hardin,
v. Gilbert & Colvin
No. 85-2135

Dear Mr. Colvin:

The Court today entered the
following order in the above entitled
case:

The Petition for a writ of cer-
tiorari is denied. Justice Scalia took
no part in the consideration or decision
of this petition.

Very truly yours,

Joseph F. Spaniol, Jr., Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 86-1545
Summary Calendar

D. C. DOCKET NO. CA-4-86-493-K

In the Matter of:
LAVOYD W. "BILL" HARDIN, Debtor.

LAVOYD WAYNE "BILL" HARDIN,

Plaintiff-Appellant,

versus

CLIFFORD F. McMASTER,

Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of Texas
Before RUBIN, RANDALL, and HIGGINBOTHAM,
Circuit Judges.

J U D G M E N T

This cause came on to be heard on
the record on appeal and was taken under
submission on the briefs on file.

ON CONSIDERATION WHEREOF, It is now
here ordered and adjudged by this Court
that the appeal in this cause is hereby
dismissed for want of jurisdiction.

IT IS FURTHER ORDERED that
plaintiff-appellant pay to defendant-
appellee the costs on appeal, to be taxed
by the Clerk of this Court.

November 20, 1986

ISSUED AS MANDATE: December 12 1986

No. 85-2135

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1986

LAVOYD WAYNE "Bill" HARDIN

Petitioner.

v.

GILBERT & COLVIN

Respondent.

PETITION FOR WRIT OR CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Lavoyd Wayne "Bill" Hardin pro se SE

Lavoyd Wayne "Bill" Hardin, pro se

Route 1, Box 127A

Deleon, Texas 76444

Telephone: (817) 893-2686

QUESTIONS
PRESENTED FOR REVIEW

1. Whether the Bankruptcy Court, The United States District Court, and the Fifth Circuit Court is guilty of a conspiracy to Defraud.

2. Whether the petitioner was denied due process of law under the United States Constitution, and the Texas Constitution.

3. Whether the petitioner was denied his homestead, and his business homestead rights under Article 16, Section 50 and 51 of the Texas Constitution.

4. Whether J. A. Hardin is the only legal owner of this property.

5. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court and the United States District Court denied petitioner and J. A. Hardin the right to have the assistance of counsel for their defense.

6. Whether the Fifth Circuit Court abused its discretion by not ruling the Trustee, the Bankruptcy Judge and the United States District Judge was compelled to accept full tender payment.

7. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge cannot take the State of Texas land as one of the petitioner's assets.

8. Whether the Fifth Circuit Court abused its discretion by not ruling the 220th District Judge Andrew Campbell was prejudice.

9. Whether the Fifth Circuit Court abused its discretion by not ruling the three Orders signed November 7, 1983 was a forgery.

10. Whether St. Clair Newbern, III owes petitioner Eighteen Hundred Dollars.

11. Whether the United States District Court abused its discretion by not going through proper Judicial procedure by holding petitioner and J. A. Hardin's trial on the same day that the bankruptcy court held the trial.

12. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court errored in trying to break petitioner's contract with the Veterans' Land Board of the State of Texas.

13. Whether the Fifth Circuit Court abused its discretion by not ruling that the Bankruptcy Court and the United

States District Court erred in granting to petitioner's ex-wife, Joan M. Hardin Foster, too much damages in a Chapter 13 case and awarding too much money to Gilbert & Colvin for attorney's fees.

14. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge abused their discretion by not ruling that the deed from the Veterans' Land Board to J. A. Hardin was valid and the Bankruptcy Judge, Trustee, and the United States District Judge was compelled to accept full tender payment from petitioner and J. A. Hardin.

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In The
SUPREME COURT OF THE UNITED STATES
October Term, 1986

No. _____

LAVOYD WAYNE "Bill" HARDIN,

Petitioner.

v.

GILBERT & COLVIN

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

The petitioner, Lavoyd Wayne "Bill" Hardin, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on February 24th, 1986 and March 17th, 1986.

OPINION BELOW

The Fifth Circuit Court of Appeals, Case No. 85-1686 and Case No. 85-1726 involve identical or closely related

questions that this petition covers the two cases (See Rule 19.4).

The Fifth Circuit Court of Appeals dismissed Case No. 85-1686, a copy is attached as Appendix A.

The Fifth Circuit Court of Appeals affirmed U. S. District Court in Case No. 85-1726, a copy is attached as Appendix B.

JURISDICTION

On February 24th, 1986, a panel of three Judges of the Fifth Circuit Court of Appeals dismissed Case No. 85-1686 (See Appendix A.).

On March 17th, 1986, a panel of three Judges of the Fifth Circuit Court of Appeals in Case No. 85-1726, affirmed the U. S. District Court's Judgment. (See Appendix B.)

The Jurisdiction of this court is invoked under the provisions of the 5th, 6th and 14th Amendments of the United States Constitution and Article 1, Section 19, Article 1, Section 11, Article 16, Section 49-50 and 51 of the Texas Constitution and Article 3996, Vernon's Annotated Civil Statutes in Texas Law.

CONSTITUTIONAL PROVISION INVOLVED

The United States Constitution Amendments 5, 6 and 14th.

Texas Constitution: Article 1, Section 19; Article 5, Section 11; Article 16, Section 49-50 and 51.

The 5th and 14th Amendments: Nor shall any person . . . be deprived of life, liberty, or property, without due process of law. . . . The 6th Amendment is everyone has the right to have the assistance of counsel for his defense. Article 1, Section 19: Nor shall any person . . . be deprived of life, liberty, or property, without due course of law . . .

Article 5, Section 11: Disqualification of Judges; No Judge shall sit in any case when he shall have been counsel in the case.

Article 16, Section 49: Exemptions From Forced Sales—The Legislature shall have power, and it shall be its duty, to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

Article 16, Section 50: No mortgage, trust deed, or other lien on the homestead shall ever be valid.

Article 16, Section 51: Homestead Defined.—provided,

that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the homestead claimant, whether a single adult person, or the head of a family, provided also, that any temporary renting of the homestead shall not change the character of the same.

STATEMENT OF THE CASE

On February 24th, 1986 and March 17th, 1986, a panel of the Fifth Circuit Court of Appeals dismissed and affirmed Case No. 85-1686 and Case No. 85-1726 without taking in consideration the 220th District Court Judge Andrew Campbell of Comanche, Texas was prejudice toward petitioner for firing him as counselor earlier. The Fifth Circuit Court of Appeals did not take into consideration that the Court of Civil Appeals for the Eleventh Supreme Judicial District of Texas at Eastland, Texas, ruled that Judge Andrew Campbell abused his discretion by denying petitioner's constitutional right by hearing this case and denying petitioner's right to call witnesses in petitioner's behalf. (584 South Western Reporter, 2d Series, 384) The Fifth Circuit Court did not rule that the Texas Supreme Court could not hear this case until petitioner had his new trial that the Court of Civil Appeals for the Eleventh Supreme Judicial District of Texas

ruled that petitioner had a constitutional right to a new trial. The Fifth Circuit Court abused its discretion by not ruling that the Bankruptcy Court and the United States District Court had no jurisdiction over the Veterans Land Board and the State of Texas property. The Fifth Circuit Court abused its discretion by not ruling that the United States District Judge, Eldon B. Mahon abused his discretion by forcing J. A. Hardin under duress and undue influence to sign over his deed and grant from the Veterans' Land Board and the State of Texas and taking away all of petitioner's assets. The Fifth Circuit Court abused its discretion by not ruling that Gilbert and Colvin is part of the conspiracy to deprive petitioner of all his assets. The Fifth Circuit Court abused its discretion by not ruling that the Trustee, the Bankruptcy Judge and the United States District Judge was compelled to accept full tender payment from petitioner and J. A. Hardin.

REASON FOR GRANTING THE WRIT

When petitioner is denied his constitutional right of due process of law under both the United States Constitution and the Texas Constitution

Petitioner has been the Victim in the past ten years by numerous Judicial errors and has been victimized in the States and Federal Courts. The Supreme Court, in the Clarence Gideon, held unanimously that he had the right to counsel.

The Supreme Court ruled in the Scottsbore case that counsel must be supplied if the results could be a prison sentence whatever the label attached to the misconduct, (also see the Case of Argisinger v. Hamlin).

CONCLUSION

For the foregoing reasons, petitioner, Lavoyd Wayne "Bill" Hardin, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit.

Respectfully Submitted,

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin

Rt. 1, Box 127A

DeLeon, Texas 76444

Telephone: (817) 893-2686

Dated: 12th May, 1986.

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1986

No. _____

LAVOYD WAYNE "Bill" HARDIN

Petitioner.

v.

GILBERT & COLVIN

Respondent.

PROOF OF SERVICE

State of Texas Ø
 Ø
County of Comanche Ø

I, Lavoyd Wayne "Bill" Hardin, after being duly sworn, deposes and says that pursuant to Rule 28.3 of this court, he served the within petition For Writ of Certiorari To The Court of Appeals For The Fifth Circuit or Counsel for the Respondent and all interested parties named in this petition below by enclosing a copy thereof in an envelope, first class postage prepaid, mailed at DeLeon, Texas, addressed to:

Gilbert and Colvin, 1035 InterFirst Tower,
Fort Worth, Texas 76102

Clifford F. McMaster, 307 Capital National Bank
Building, Fort Worth, Texas 76102

J. A. Hardin, Route One,
Fayetteville, Tennessee 37334

Ben Sudderth and Keith Woodley of Sudderth,
Woodley and Dudley, 109 West Grand,
Comanche, Texas 76442

St. Clair Newbern, III, 1116 River Plaza Tower,
1701 River Run Road, Fort Worth, Texas 76107

Joan M. Hardin Foster, 904 Burleson Street,
DeLeon, Texas 76444

Roy Hufstutler, 1001 North Houston Street,
Comanche, Texas 76442

James Robert Arthur, W. Highland,
Comanche, Texas 76442.

Signed this 12th day of May, 1986.

Lloyd W. Bill Hardin

Lloyd W. Bill Hardin

Route 1, Box 127A

DeLeon, Texas 76444

Phone No. (817) 893-2686

Subscribed and Sworn to Before Me, this 12th day of May, 1986

Delta C. C. C. (DELTA C. C. C.)
Notary Public in and For
Comanche County, State of Texas

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 85-1686

Summary Calendar

LAVOYD WAYNE HARDIN, a/k/a
BILL HARIN, Debtor

LAVOYD WAYNE HARDIN, a/k/a
BILL HARDIN,

Plaintiff-Appella

versus

GILVERT & COLVIN,

Defendant-Appellee

Appeal from the United States District Court for the
Northern District of Texas

(February 24, 1986)

Before REAVLEY, HIGGINBOTHAM, and HILL, Circuit Judges.

PER CURIAM:*

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession. Pursuant to that Rule, the court has determined that this opinion should not be published."

RH
2-17-86
PSH
2-18-86

DMR
2-21-86

APPENDIX

This is the sixth time that appellant, Lavoyd Wayne "Bill" Hardin, has perfected an appeal in a matter relating to his bankrupt estate. See Hardin v. Hardin, No. 84-1250 (5th Cir. May 24, 1984) (dismissed for failure to file briefs); Hardin v. Hardin, No. 84-1037 (5th Cir. Aug. 22, 1984) (per curiam); Hardin v. McMaster, No. 84-1396 (5th Cir. Sept. 26, 1984) (per curiam); Hardin v. McMaster, No. 84-1614 (5th Cir. Dec. 20, 1984) (per curiam); Hardin v. Arthur, No. 84-1615 (5th Cir. Dec. 20, 1984) (per curiam). In the instant appeal Hardin appeals from an order by the bankruptcy court granting an interim award to the Trustee for attorney's fees, commission and expenses. Hardin's challenge to this award is based on allegations that the trustee, his attorneys, and other have deprived him of "his constitutional right, his life's sweat and labor and every asset that he has accumulated." This court in prior holdings has determined that these allegations are without legal merit. Finding Hardin's claim to have no conceivable foundation in fact or law we dismiss the appeal. See Windsor v. Pan American Airways, 744 F.2d 1187 (5th Cir. 1984).

Appeal DISMISSED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 85-1726
Summary Calendar

LAVOYD WAYNE HARDIN,
a/k/a/ BILL HARDIN,

Plaintiff-Appellant,

versus

GILBERT & COLVIN,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas

(March 17, 1986)

Before RUBIN, JOHNSON, and JONES, Circuit Judges.

PER CURIAM:

The judgment of the district court is AFFIRMED. See Local
Rule 47.6. Appellant has previously submitted numerous frivolous
appeals to this Court. While this Court will not exercise its
discretion to impose sanctions on this appeal, further abuse of
the appellate process will not be tolerated. Therefore,
appellee's motion for sanctions is DENIED. See Fed. R. App. P.
38.

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APPENDIX

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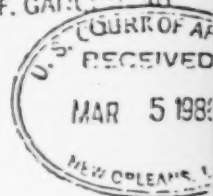
U.S. COURT OF APPEALS
FILED

MAR 5 1986

In The United States Court of Appeals
For The Fifth Circuit

GILBERT F. GAINES

No. 95 - 1686



Lavoyd Wayne "Bill" Hardin,

plaintiff - Appellant,

Versus

Gilbert & Colvin,

Defendant - Appellee

Notice of Appeal

I, Lavoyd Wayne "Bill" Hardin, pro-se, appeal Case
No. 95 - 1686, to the Supreme Court of the United States
of America in Washington, D. C.

Signed this 3rd day of March, 1986.

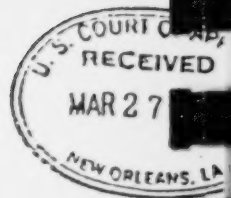
Lavoyd Wayne "Bill" Hardin

Lavoyd Wayne "Bill" Hardin
Route 1, Box 127A
Le Leon, Texas 76444
Phone No. (817) 893-2686

U.S. COURT OF APPEALS
FIFTH CIRCUIT

MAR 27 1986

GILBERT R. GONZALEZ
CLERK



In The United States Court of App^l
For The Fifth Circuit

No. 85-1726

Lavoyd Wayne "Bill" Hardin,

plaintiff-Appellant,

Versus

Gilbert & Colvin,

Defendant-Appellee

Notice of Appeal

I, Lavoyd Wayne "Bill" Hardin, pro-se, appeal Case
No. 85-1726, to the Supreme Court of the United States
of America in Washington, D. C.

Signed this 24th day of March, 1986.

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin
Route 1, Box 127A
DeLeon, Texas 76444
Phone No. (817) 893-2686

BEST AVAILABLE

No. 85-1324

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1987

LAVOYD WAYNE "Bill" HARDIN

Petitioner.

v.

CLIFFORD F. MCMASTER

Respondent.

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin, pro
se

Route 1, Box 127A
DeLeon, Texas 76444
Telephone: (817) 893-2686

ABLE COPY

QUESTIONS
PRESENTED FOR REVIEW

1. Whether the Bankruptcy Court, The United States District Court, and the Fifth Circuit Court is guilty of a conspiracy to Defraud.

2. Whether the petitioner was denied due process of law under the United States Constitution, and the Texas Constitution.

3. Whether the petitioner was denied his homestead, and his business homestead rights under Article 16, Section 50 and 51 of the Texas Constitution.

4. Whether J. A. Hardin is the only legal owner of this property.

5. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court and the United States

District Court denied petitioner and J. A. Hardin the right to have the assistance of counsel for their defense.

6. Whether the Fifth Circuit Court abused its discretion by not ruling the Trustee, the Bankruptcy Judge and the United States District Judge was compelled to accept full tender payment.

7. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge cannot take the State of Texas land as one of the petitioner's assets.

8. Whether the Fifth Circuit Court abused its discretion by not ruling the 220th District Judge Andrew Campbell was prejudice.

9. Whether the Fifth Circuit Court abused its discretion by not ruling the three Orders signed November 7, 1983 was a forgery.

10. Whether St. Clair Newbern, III owes petitioner Eighteen Hundred Dollars.

11. Whether the United States District Court abused its discretion by not going through proper Judicial procedure by holding petitioner and J. A. Hardin's trial on the same day that the bankruptcy court held the trial.

12. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Court errored in trying to break petitioner's contract with the Veterans' Land Board of the State of Texas.

13. Whether the Fifth Circuit Court abused its discretion by not ruling

that the Bankruptcy Court and the United States District Court erred in granting to petitioner's ex-wife, Joan M. Hardin, Foster, too much damages in a Chapter 13 case and awarding too much money to Gilbert and Colvin for attorney's fees.

14. Whether the Fifth Circuit Court abused its discretion by not ruling the Bankruptcy Judge and the United States District Judge abused their discretion by not ruling that the deed from the Veteran's Land Board to J. A. Hardin was valid and the Bankruptcy Judge, Trustee, and the United States District Judge was compelled to accept full tender payment from petitioner and J. A. Hardin.

15. Whether the United States District Judge, Eldon B. Mahon used duress and undue influence when he threat-

ened to put J. A. Hardin in jail if J. A. Hardin did not sign his deed over to Clifford F. McMaster, when J. A. Hardin had full tender payment in hand.

16. Whether St. Clair Newbern betrayed the trust of petitioner as his attorney.

17. Whether St. Clair Newbern betrayed his oath as a federal attorney.

18. Whether St. Clair Newbern betrayed the law and petitioner by entering petitioner business homestead in a Chapter (13) thirteen bankruptcy case.

19. Whether Judge John Flowers betrayed his oath of office by allowing the Veterans Land Board property to be entered in this Chapter (13) thirteen case.

20. Whether Judge John Flowers, Judge Michael A. McConnell, Judge David

O. Belew, and Judge Eldon B. Mahon abused their oath to their high office by defying Article VI, Clause (2) of the United States Constitution.

21. Whether Clifford F. McMaster was legally appointed trustee in a Chapter (13) thirteen case.

22. Whether Judge John Flowers was within the law when he converted the Chapter (13) thirteen case to a Chapter (7) Seven case.

23. Whether Judge John Flowers, Judge Michael A. McConnell, Judge David O. Belew, Judge Eldon B. Mahon, Gilbert and Colvin, St. Clair Newbern, III, and Clifford F. McMaster is guilty of a conspiracy to commit fraud for the purpose of enrichment.

24. Whether Clifford F. McMaster misapplied fiduciary property.

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In The
SUPREME COURT OF THE UNITED STATES
October Term, 1987

NO. _____

LAVOYD WAYNE "Bill" HARDIN

Petitioner

v.

CLIFFORD F. MCMASTER

Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

The petitioner, Lavoyd Wayne "Bill" Hardin, respectfully prays that a writ of Certiorari be issued to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on November 20, 1986.

OPINION BELOW

The fifth Circuit Court of Appeals was right when they said they lack jurisdiction in this case, in fact no State Court, or Federal Court had jurisdiction over all the cases, that petitioner has been forced to defend in the past eleven years, but the Supreme Court of the United States has jurisdiction over all these cases, and can straighten out this mess.

JURISDICTION

Article 111, Section 2. (1)

CONSTITUTIONAL PROVISION INVOLVED

Article VI (2) Amendments 5, 6 and 14th of the United States Constitution

Article 1. Section 19; Article 5, Section 11; Article 16, Section 49-50 and 51, of the Texas Constitution.

STATEMENT OF THE CASE

Petitioner, Lavoyd Wayne "Bill" Hardin filed this case for damages against

Clifford F. McMaster, respondent, for misapplication of fiduciary property in the 220th District Court, Comanche County, Texas, where petitioner lives, respondent had no jurisdiction over this property, the state and federal judges or courts had no jurisdiction over this property, this property belonged to the Veterans Land Board of the State of Texas, which petitioner being an honorable discharged Veteran of the United States of America Armed forces, had a valid contract.

CONCLUSION OF LAW

By the letter of the law; for a contract to be binding and enforceable, it must fulfill four legal requirements; mutual assent or consent, competent parties lawful consideration, and valid subject matter.

A contract that meets these requirements and has been fully executed on both sides will not be disturbed by the courts

and the courts has no jurisdiction over this contract when both parties are in full agreement.

REASON FOR GRANTING THE WRIT

When petitioner denied his constitutional right of due process of law under both the United States Constitution and the Texas Constitution.

Petitioner has been the victim in the past eleven years by numerous judicial errors and has been victimized in the States and Federal Courts. The Supreme Court, in the Clarene Gideon, held unanimously that he had the right to counsel.

The Supreme Court ruled in the Scottsboro case that counsel must be supplied if the results could be a prison sentence whatever the label attached to the misconduct, (also see the case of *Argsinger v. Hamlin*).

CONCLUSION

For the foregoing reasons, petitioner, Lavoyd Wayne "Bill" Hardin, respectfully requests that a writ of certiorari issue to review the judgement of the United States Court of Appeals for the Fifth Circuit.

Respectfully Submitted,

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin

Rt. 1, Box 127A

DeLeon, Texas 76444

Telephone (817) 893-2686

Dated *February 2nd*, 1987.

AFFIDAVIT
PROOF OF SERVICE

I, Layoyd Wayne "Bill" Hardin, petitioner, hereby certify that a true and correct copy of this petition was mailed by first class to respondent's attorney, Gilbert and Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102. And all interested parties below:

Clifford F. McMaster, 307 Capital National Bank Building, Fort Worth, Texas 76102

J. A. Hardin, Route One, Fayetteville, Tennessee 37334

Ben Sudderth, 109 West Grand, Comanche, Texas 76442

St. Clair Newbern, III, 1116 River Plaza Tower, 1701 River Run Road, Fort Worth, Texas 76107

Joan M. Hardin Foster, 904 Burleson Street, DeLeon, Texas 76444

Roy Hufstutler, 1001 North Houston Street, Comanche, Texas 76442

James Robert Authur, W. Highland,
Comanche, Texas 76442

Signed this 2nd day of February,
1987.

Lavoyd Wayne "Bill" Hardin

Lavoyd Wayne "Bill" Hardin

Route 1; Box 127A

DeLeon, Texas 76444

Phone No. (817) 893-2686

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 86-1545
Summary Calendar

In the Matter of: LAVOYD W. "BILL"
HARDIN, Debtor, LAVOYD WAYNE "BILL"
HARDIN,

Plaintiff-Appellant

versus

CLIFFORD F. MCMASTER

Defendant-Appellee

Appeal from the United States Dis-
trict Court for the Northern
District of Texas
(Docket No. CA-4-86-493-K)

Before RUBIN, RANDALL, and HIGGINBO-
THAN, Circuit Judges.

PER CURIAM:

In this protracted bankruptcy
proceedings, Lavoyd Wayne "Bill" Har-
din, who has filed a number of pre-

vious appeals, now seeks to appeal a district court order denying remand of related proceedings to state court, from which the related proceedings had been removed pursuant to 28 U. S. C. 1452.

We lack jurisdiction to review an order denying remand. In re Rayburn Enterprises, Inc., 781 F. 2d 501 (5th Cir. 1986). This decision follows the command of U. S. C. 1452 (b), which expressly provides:

An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.

While Hardin also now seeks to have this court review all of the prior proceedings in this matter, those proceedings have either been previously reviewed by us or are not reviewable because they are interlocutory.

of the United States Constitution.

Lavoyd Wayne "Bill" Hardin Pro

Lavoyd Wayne "Bill" Hardin, pro se
Route 1, Box 127A
DeLeon, Texas 76444

Phone No. (817) 893-2686

Affidavit
Proof of Service

I, Lavoyd Wayne "Bill" Hardin, certify that a copy of this Notice of Appeal under the penalty of perjury was mailed by First Class to Defendant Clifford F. McMaster's attorney, Gilbert & Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102, and all interested parties listed below:

Gilbert & Colvin, 1035 InterFirst Tower, Fort Worth, Texas 76102

Clifford F. McMaster, 307 Capital National Bank Building, Fort Worth, Texas 76102

J. A. Hardin, Route One, Fayetteville
Tennessee 37334

Ben Sudderth and Keith Woodley of
Sudderty, Woodley and Dudley 109 W.
Grand, Comanche, Texas 76442

St. Clair Newbern, III, 1116 River
Plaza Tower, 1701 River Run Road,
Fort Worth, Texas 76107

Joan M. Foster, 904 Burleson Street,
DeLeon, Texas 76444

Roy Hufstutler, 1001 N. Houston
Street, Comanche, Texas 76442

James Robert Arthur, W. Highland,
Comanche, Texas 76442

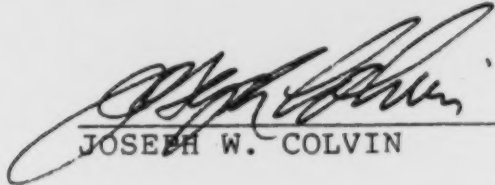
Signed this 16th day of December,
1986.

Lavoyd Wayne "Bill" Hardin
Lavoyd Wayne "Bill" Hardin

Filed December 19, 1986 in the U. S.
Court of Appeals for the Fifth
Circuit

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing have been served on all counsel of record, by mailing sets of same, on this 10 day of March, 1987.



JOSEPH W. COLVIN

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR
HARD COPY AT THE TIME OF FILMING.
IF AND WHEN A BETTER COPY CAN BE
OBTAINED, A NEW FICHE WILL BE
ISSUED.

No. 86-1324

Supreme Court, U.S.
FILED

MAR 18 1987

JOSEPH F. SPANIOL, JR.
CLERK

In The

Supreme Court of The United States

October Term, 1987

Lavoyd Wayne "Bill" Hardin

petitioner.

V.

Clifford F. McMaster

Respondent.

On Writ of Certiorari To The United
States Court of Appeals
For The Fifth Circuit

Supplement Appendix

Lavoyd Wayne "Bill" Hardin Pro-se

Lavoyd Wayne "Bill" Hardin, pro-se
Route 1, Box 127A
DeLeon, Texas 76444
Telephone (817) 893-2686

57PP

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IN THE UNITED STATES
DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

LAVOYD W. "BILL"
HARLIN

VS.

CLIFFORD F.
MCMASTER

CIVIL ACTION
NO. 4-86-493-K

MEMORANDUM OPINION

Pending before the Court is the appeal of an order of the Bankruptcy Court denying the debtor-appellant's Motion to Remand.

Plaintiff-appellant previously filed a cause of action in the 220th District Court of Comanche County, Texas alleging misapplication of fiduciary property by the defendant. The state court proceeding was removed to Bankruptcy Court pursuant to 28 U.S.C. §1452. That Court subsequently denied Plaintiff's motion to remand. Plaintiff thereafter appealed the decision

to this Court.

Plaintiff's state court action is not a proceeding before the United States Tax Court, nor is it a civil action by a governmental unit to enforce such unit's policy or regulatory power. The Bankruptcy Court has jurisdiction to hear proceedings arising in or related to cases under Title 11, which includes matter concerning the administration of an estate. 28 U.S.C. §157;1334. Plaintiff's suit is therefore subject to removal under §1452. A decision regarding remand is not reviewable by appeal or otherwise. 28 U.S.C. §1452(b).

For these reasons, the Court is of the opinion that Plaintiff may not appeal the Bankruptcy Court's Order denying Remand.

An order will be entered in accordance with this memorandum opinion.

SIGNED this 16 day of July, 1986.

Signed by David O. Belew, Jr.

United States District Judge

IN THE UNITED STATES
DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

LAVOYD W. "BILL"
HARDIN

VS.

CLIFFORD F.
MCMASTER

CIVIL ACTION
NO. 4-86-493-K

ORDER

In accordance with the accompanying Memorandum Opinion and for the reasons stated therein, Plaintiff's appeal of the Bankruptcy Court's Order denying remand is hereby in all things DENIED. Costs are taxed to the party incurring same.

IT IS SO ORDERED.

SIGNED this 16 day of July 1986.

Signed by David O. Belew, Jr.
United States District Judge

IN THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT

No. 86-1545
Summary Calendar

In the Matter of:
LAVOYD W. "BILL"
HARDIN, Debtor,
LAVOYD WAYNE "BILL"
HARDIN,

Plaintiff-
Appellant,

versus

CLIFFORD F.
MCMASTER,

Defendant-
Appellee.

Appeal from the United States
District Court for the
Northern District of Texas
(Docket No. CA-4-86-493-K
(November 20, 1986)

Before RUBIN, RANDALL, and HIGGINBOTHAM,
Circuit Judges.

PER CURIAM:

In this protracted bankruptcy proceeding, Lavoyd Wayne "Bill" Hardin, who has filed a number of previous appeals, now

v.

seeks to appeal a district court order denying remand of related proceedings to state court, from which the related proceedings had been removed pursuant to 28 U.S.C. §1452.

We lack jurisdiction to review an order denying remand. In re Rayburn Enterprises, Inc., 781 F. 2d 501 (5th Cir. 1986). This decision follows the command of 28 U.S.C. § 1452(b), which expressly provides:

An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.

While Hardin also now seeks to have this court review all of the prior proceedings in this matter, those proceedings have either been previously reviewed by us or are not reviewable because they are interlocutory.

For these reasons, we DISMISS the appeal.

NO. 12,010

IN THE MATTER OF THE MARRIAGE
OF JOAN MURLE HARDIN AND
LAVOYD WAYNE (BILL) HARDIN,
AND IN THE INTEREST OF RODNEY
BILL HARDIN, A MINOR CHILD

IN THE DISTRICT
COURT OF
COMANCHE
COUNTY, TEXAS
52nd JUDICIAL
DISTRICT

ORIGINAL ANSWER OF RESPONDENT,
LAVOYD WAYNE (BILL) HARDIN

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Respondent in the above Cause, Lavoyd Wayne (Bill) Hardin, and makes this Answer to the Original Petition for Divorce filed herein under the styled and numbered proceeding set out first above.

(1)

This Respondent makes answer and appearance herein, by requesting upon final hearing of this Cause that all matters in controversy which are necessary to entry of Judgment herein be proved to the satisfaction of the Court by a preponderance of the evidence or full and satisfactory evidence as may be required by law.

WHEREFORE, PREMISES CONSIDERED, this Respondent prays for relief as stated above.

Respectfully submitted,

/



CAMPBELL AND CAMPBELL
Box 649
Hamilton, Texas 76531

by ANDREW CAMPBELL
Attorney for Respondent,
Lavoyd Wayne (Bill) Hardin

FILED December 15, 1975, by Ruth Page, District Clerk,
Comanche County, Texas

NO. 12,551

JOAN MURLE HARDIN § IN THE 220th JUDICIAL
 §
VS. § DISTRICT COURT OF
 §
LAVOYD WAYNE HARDIN § COMANCHE COUNTY, TX

* * * * *

EXERPT – STATEMENT OF FACTS

* * * * *

Before The Honorable Andrew Campbell, Presiding Judge

* * * * *

APPEARANCES.

HON. KEITH WOODLEY, of the law firm of
Sudderth, Woodley and Dudley, 109 West
Grand Avenue, Comanche, Texas,

For the Plaintiff.

HON. JIM PARKER, Attorney at Law, P. O.
Box 762, Comanche, Texas,

For the Defendant.

* * * * *

BE IT REMEMBERED that on the 2nd day of November,
1978, the same being one of the regular days of the November,
1978 term of the 220th Judicial District Court of Comanche
County, Texas, the above entitled and numbered cause was

called for trial, whereupon, the following proceedings were
had, to-wit:

No. 12,551

JOAN MURLE HARDIN	Ø	IN THE DISTRICT COURT
VS.	Ø	OF COMANCHE COUNTY,
LAVOYD WAYNE HARDIN,	Ø	TEXAS 220th
ET AL	Ø	JUDICIAL DISTRICT

ANSWER OF VETERANS LAND BOARD
OF THE STATE OF TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Veterans Land Board of the State of Texas, and represents unto the Court as follows:

This Defendant is the owner of the land involved herein and is not a party to the note or deed of trust referred to in Plaintiff's petition. This Board sold the land to a veteran under the Veterans Land Program and presumeably the note and lien in question were executed by the veteran. At the most, said note and lien will be a matter between said veteran and the mortgagee, and this Board is not involved.

WHEREFORE, said Board prays that its interest be fully protected and that no judgment be awarded against it and that it go hence and recover its costs.

Respectfully submitted,

JOHN L. HILL
Attorney General of Texas

AUSTEN H. FURSE
Assistant Attorney General

Signed by: J. ARTHUR SANDLIN
Assistant Attorney General

ATTORNEYS FOR VETERANS LAND
BOARD OF THE STATE OF TEXAS

Filed August 14, 1978 by Ruth Page, District Clerk,
Comanche County, Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer of Veterans Land Board of the State of Texas has been mailed by First Class Mail, Postage Prepaid, on this the 11th day of August, 1978, to Mr. Ben D. Sudderth, P.O. Box 89, Comanche, Texas 76442, attorney for Plaintiff.

Signed by J. ARTHUR SANDLIN.

EXHIBIT D

Lavoyd Wayne HARDIN, Appellant,

v.

Joan Murle HARDIN, Appellee.

No. 5313.

Court of Civil Appeals of Texas,
Eastland.

July 5, 1979.

Rehearing Denied July 26, 1979.

Holder of promissory note sued her former husband on the note. The 220th District Court, Comanche County, Andrew Campbell, J., entered judgment in favor of holder, and appeal was taken. The Court of Civil Appeals, McCloud, C. J., held that where objection to proposed amended answer failed to assert that such amendment would operate as a surprise to plaintiff and where there was no showing of surprise, trial court abused its discretion in refusing to grant leave to file amended answer on date of trial.

Reversed and remanded.

Pleading + 236(2)

Where objection to proposed amended answer failed to assert that such amendment would operate as a surprise to

plaintiff and where there was no showing of surprise, trial court abused its discretion in refusing to grant leave to file amended answer on date of trial. Rules of Civil Procedure, rules 63, 419.

Jim Parker, Comanche, for appellant

Keith Woodley, Sudderth, Woodley & Dudley, Comanche, for appellee.

McCLOUD, Chief Justice.

Plaintiff, Joan Murle Hardin, sued her former husband, Lavoyd Wayne Hardin, on a promissory note in the original principal sum of \$25,000. On the date set for trial, defendant attempted to file an amended answer containing several affirmative defenses. The court denied defendant leave to file the amended pleading. The case proceeded to trial, and the court entered judgment for plaintiff for \$23,500 plus interest and attorney's fees. The court also ordered foreclosure of a deed of trust lien, securing the note, on property owned by defendant. Defendant has appealed. We reverse and remand.

Defendant filed a pro se answer on July 28, 1978. The case was set for trial for October 20, 1978. Defendant employed an attorney on October 18, 1978. The attorney on that

date filed a motion for continuance which was granted continuing the case until October 27, 1978. On October 27, 1978, the attorney filed a second motion which was granted continuing the case until November 2, 1978. On November 2, 1978, defendant and his attorney were present for trial and at that time attempted to file an answer amending the original handwritten "answer" filed by defendant. The court refused to grant leave to file the amended pleading.

Defendant states in his brief that the continuance granted by the court on October 27, 1978, continuing the case to November 2, 1978, was for the "purpose of filing pleadings." This statement is not challenged by appellee. Tex.R.Civ.P.419. Defendant points out that there are only six days between October 27 and November 2.

Tex.R.Civ.P. 63 provides:

Parties may amend their pleadings, file suggestions of death and make representative parties, and file such other pleas as they may desire by filing such pleas with the clerk at such time as not to operate as a surprise to the opposite party; provided, that any amendment offered for filing within seven days of the date of trial or thereafter, or after

such time as may be ordered by the judge under Rule 166, shall be filed only after leave of the judge is obtained, *which leave shall be granted by the judge unless there is a showing that such amendment will operate as a surprise to the opposite party.* (Emphasis added)

The rule clearly requires that the party opposing an amendment show that such amendment will operate as a "surprise" to him. Plaintiff's only objection to the tendered amendment was that it had not "been filed within the seven day rule." He made no objection, as required by Rule 63, that the proposed amended answer would "operate as a surprise" to him. There is no "showing" in the record that the amendment would operate as a surprise. The record will not support an implied finding by the trial court that the amendment would operate as a surprise. There are several cases holding that it is not an abuse of discretion to deny leave to file an amendment on the day set for trial. In those cases, however, there was an objection that the amendment would operate as a surprise. *Box v. Associates Investment Company*, 389 S.W.2d 687 (Tex. Civ.App.—Dallas 1965, no writ); *Roeber v. DuBose*, 510 S.W.2d 126 (Tex.Civ.App.—Corpus Christi 1974, no writ). No such objection was made in the instant case. Also, this is not a case

where the transcript merely shows the amendment was tendered and refused. *Herrin Transportation Co. v. Parker*, 425 S.W.2d 876 (Tex.Civ.App.—Houston (1st Dist.) 1968, writ ref'd n. r. e.); *Patino v. Texas Employers Insurance Association*, 491 S.W.2d 754 (Tex.Civ.App.—Austin 1973, writ ref'd n. r. e.). The statement of facts in the instant case reflects clearly the circumstances surrounding the tendered amendment and the objections thereto.

We hold that the trial court, since the objection failed to assert surprise and there is no showing of surprise, abused its discretion in not granting leave to file the amended answer. See *Vermillion v. Haynes*, 147 Tex. 359, 215 S.W.2d 605 (1948).

Judgement of the trial court is reversed, and the cause is remanded for a new trial.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE:

LAVOYD WAYNE "BILL" HARDIN	§	CASE NO.
SS #454-44-9464,	§	480-00513
aka BILL HARDIN	§	Chapter 13
Debtor	§	

PROOF OF CLAIM
OF VETERANS LAND BOARD OF TEXAS

The Veterans Land Board of Texas, established under Article III, Section 49-b of the Constitution of Texas, acting herein through Ralph T. Aldave, Assistant Attorney General of the State of Texas, who resides in Austin, Texas, as agent and attorney for Claimant, makes this Proof of Claim in behalf of Claimant.

The Bankrupt was, at the time of the filing of the petition initiating this case, and still is, indebted to this Claimant in the principal sum of \$950.40, together with interest of \$15.08 to October 31, 1980, and interest of \$.07 per day and -0- per day penalty from that date until paid. The total amount due this Claimant, as of the time that Bankrupt filed for bankruptcy, is \$965.48.

Acting under the Texas Veterans Land Program, Claimant

sold to Bankrupt, on a long-term Contract of Sale and Purchase, the real property described therein. Under such contract, Claimant retains ownership of such property until the purchase price is paid in full. Copy of such contract is attached hereto.

No judgment has been rendered on this claim.

The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

This claim is not subject to any setoff or counterclaim.

The security interest of Claimant is that it owns said land until said purchase price is paid in full under terms of the attached contract.

DATED this the 6th day of March, 1981.

Respectfully submitted,

MARK WHITE
Attorney General of Texas

- JAMES R. MEYERS
Assistant Attorney General

CARL E. GLAZE
Assistant Attorney General

Signed by RALPH T. ALDAVE
Assistant Attorney General
Bar ID #00979600

P. O. Box 12548
Capitol Station
Austin, Texas 78711
Ph. 512-479-8191

ATTORNEY FOR CLAIMANT
VETERANS LAND BOARD
OF TEXAS

BANKRUPTCY COURT

Transcript dated March 3, 1982

PROCEEDINGS

Page 3, lines 6 through 8:

THE COURT: The last matter is the hearing on confirmation of the proposed plan of debt adjustment of Lvaoyd Wayne Bill Hardin in the Chapter XIII Case Number 4-80-00513.

I've ruled that Mr. Hardin may in his plan provide for curing the default on certain notes executed to Mrs. Hardin.

Page 84, line 25 through page 85, lines 1 & 2:

His only alternative - He does have an alternative, and that is to sell the property and pay the indebtedness off.

EXHIBIT G

ATTENTION ASSIGNEE: IT IS THE RESPONSIBILITY OF
THE ASSIGNEE TO SATISFY HIMSELF AS TO THE CON-
DITION OF THE TITLE FROM THE TIME OF THE ORIG-
INAL VETERANS PURCHASE TO THE PRESENT TIME

ASSIGNMENT OF CONTRACT OF VETERANS LAND BOARD
CONTRACT OF SALE AND PURCHASE 3096

4970 (To Be Submitted in Duplicate)

STATE OF TEXAS

COUNTY OF ERATH/COMANCHE

WHEREAS, LAVOYD W. HARDIN of Comanche County,
Texas, hereinafter called Assignor, whether one or more, and
J. A. HARDIN, hereinafter called Assignee, whether one or
more, whose date(s) of birth, respectively, is (are) 11-7-43 and
whose mailing address is Route 1, DeLeon, TX 76444 desire
to make and accept an assignment of that certain Contract of
Sale and Purchase dated 9-20-55 recorded in Vol. 351 and 284,
Page(s) 406 and 317, of the Deed Records of Erath County
and Comanche County, Texas, to which instrument(s) and
the record thereof reference is here made for all legal and
pertinent purposes; and,

WHEREAS, the parties hereto agree and understand that

this Assignment is subject to and is governed by the Provisions of Acts 51st Legislature, R. S. 1949, Ch. 318, as amended, and the Rules and Regulations of the Veterans Land Board of the State of Texas, and shall not be effective until approved by the Chairman or Acting Chairman of the Veterans' Land Board;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, the Assignor, for and in consideration of Ten and no/100 (\$10.00) Dollars, and other good and valuable consideration, in hand paid by the Assignee, the receipt of which is hereby acknowledged and confessed, and for the payment of which no right of lien, express or implied, is hereby retained or shall exist, does hereby assign, transfer and convey unto the said Assignee the above referenced Contract of Sale and Purchase and all of the right, title and interest of the said Assignor in and to the tract of land described in said Contract of Sale and Purchase except as may be indicated hereinabove;

TO HAVE AND TO HOLD the same unto the said Assignee, his heirs, executors, administrators and assigns forever, subject, however, to the terms, conditions and stipulations embodied in said Contract of Sale and Purchase:

AND, the Assignee does hereby accept the assignment of said Contract of Sale and Purchase and does hereby agree to assume all of the obligations provided for therein including the amendments thereto, if any, set out hereinbelow; And, the Assignee does hereby further agree to accept the assignment of said Contract of Sale and Purchase as a (veteran) (non-veteran) and to comply with and be bound by the Statute referred to hereinabove and the Rules and Regulations of the Veterans land Board of the State of Texas.

(TO APPLY ONLY IF ASSIGNEE IS TAKING THE
ASSIGNMENT AS A NON-VETERAN)

Since the Assignee herein is not taking this assignment as a veteran, and in order to comply with the above referenced Act, as amended, in regard to the transfer and assignment of a Contract of Sale and Purchase to non-veterans, the Contract between the original veteran purchaser and the Board is amended as follows: The semi-annual installments set out in said Contract shall be changed to \$138.18 One Hundred Thirty-eight and 18/100 (\$138.18) due and payable semi-annually on or before the first day of each November and May thereafter until the total purchase price and interest have been paid. The

interest rate on the unpaid principal balance shall from the
effective date of this assignment be ten (10) per cent per annum.

G.L.O.-V-61A-(1-82)

276-21800

* * * * *

WITNESS OUR HANDS this the 24th day of August,
A.D. 1983.

APPROVED: (Signed by)

GARRY MAURO, Chairman
Veterans Land Board
State of Texas
Austin, Texas

Signed by: Lavoyd W. Hardin, Assignor

and: J. A. Hardin, Assignee

DOUBLE ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF ERATH

Before me, the undersigned authority, on this day personally appeared LAVOYD W. HARDIN and J. A. HARDIN; both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this the 24th
day of August, 1983.

Signed by: JOHN C. BOUCHER
Notary Public in and for
Erath County, Texas
Commission Expires: 1-10-84

SINGLE ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority, on this day personally appeared Garry Mauro, Chairman, Veterans Land Board of the State of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

Given under my hand and seal of office this the 7th day
of September, A.D. 1983.

Signed by: CHRIS ALONZO
Notary Public in and for
Travis County, Texas

G.L.O.—V—49—(1-82)

FILED FOR RECORD at 1:45 o'clock P.M. SEP. 12, 1983
by Pauline Chandler, Clerk, County Court, Erath County, TX

THE STATE OF TEXAS

COUNTY OF ERATH

I, PAULINE CHANDLER, Clerk of the County Court of Erath County, Texas, do hereby certify that the above and foregoing is a true and correct copy of the original document as recorded in my office in Vol. 620 Page 657. Given under my hand and the seal of said court of office in Stephenville, Erath County, Texas, this 15th day of June A.D. 1984.

Pauline Chandler,
Clerk of the County Court, Erath County, Texas

Signed by: HERLINE WALTON, Deputy

EXHIBIT H

STATE OF TEXAS §
COUNTY OF TRAVIS §

IN THE NAME OF THE STATE
OF TEXAS

0271

249

TO ALL TO WHOM THESE PRESENTS SHALL COME,
KNOW YE:

WHEREAS, the VETERANS LAND BOARD OF THE
STATE OF TEXAS has, in accordance with the provisions of
the Texas Veterans Land Act, purchased a certain tract of land
hereinafter described and has resold said land under Contract
of Sale and Purchase to the GRANTEE hereinafter named; and

WHEREAS, said GRANTEE has complied with the re-
quirements of said BOARD and with the provisions of said
Act, and has paid the entire indebtedness due under said
Contract of Sale and Purchase; and

WHEREAS, upon payment of the entire indebtedness due
under said Contract of Sale and Purchase, said BOARD shall
execute a deed to the original veteran purchaser or to the last
assignee whose assignment has been approved by said BOARD;
and

WHEREAS, the Chairman of said BOARD, or in his ab-
sence or illness the Acting Chairman of said BOARD, is fully

empowered and authorized to execute and deliver such deed;
NOW, THEREFORE,

FOR AND IN CONSIDERATION of the sum of
SIX THOUSAND, SEVEN HUNDRED FIFTY and NO/100
(\$6,750.00) DOLLARS, cash in hand paid to said BOARD by
said GRANTEE, the receipt of which is hereby acknowledged
and confessed, said BOARD has GRANTED and CONVEYED,
and by these presents does hereby GRANT and CONVEY, unto

J. A. HARDIN
Route 1, DeLeon, TX 76444

GRANTEE, all that certain lot, tract, or parcel of land more
particularly described as

that 154.3 acre tract situated in the M. V. Robinson and the
T. E. Ely Surveys, Comanche and Erath Counties, Texas, des-
cribed by metes and bounds in the Warranty Deed to the
Veterans Land Board dated September 22, 1955, recorded in
Vol. 284, page 316, Comanche County, Texas and recorded in
Vol. 351, page 404, Erath County, Texas; and also further
described in that Contract of Sale dated September 20, 1955,
recorded in Vol. 284, page 317, Comanche County, Texas and
recorded in Vol. 351, page 406, Erath County, Texas; and
assigned on August 24, 1983 to GRANTEE herein.

This conveyance is made SUBJECT TO any reservations, conditions or agreements set out in the instruments cited above.

HEREBY relinquishing unto said GRANTEE, his heirs and assigns, forever, all of said BOARD'S right, title, and interest in and to said land;

BUT IT IS AGREED AND UNDERSTOOD that in the event that a patented survey of which the above described tract of land is a part contains excess acreage, or that unsurveyed school land contained within the boundaries of the above-described tract of land, said BOARD by the execution of this deed does not purport to grant or convey any right, title, or interest in and to such excess acreage or unsurveyed school land.

WITNESS MY HAND AND SEAL OF THE VETERANS LAND BOARD OF THE STATE OF TEXAS, this the 6th day of January, 1984.

Signed by: GARRY MAURO, Chairman
VETERANS LAND BOARD
OF THE STATE OF TEXAS

Filed 20th day of January, 1984 at 4:00 o'clock P.M.

Recorded 23rd day of January, 1984 at 9:00 o'clock A.M.

BETTY CONWAY, COUNTY CLERK

Signed by: Billie R. Vineyard, Deputy

CLERK'S CERTIFICATE

THE STATE OF TEXAS ¶
 ¶
COUNTY OF COMANCHE ¶

I, Betty Conway, Clerk of the County Court of Comanche County, Texas, do hereby certify that the above and foregoing is a true and correct copy of

1. Deed

as same appears of record in volume 570, Page 206 of the Deed Records of Comanche County, Texas.

Given under my hand and seal of office in the City of Comanche, Comanche County, Texas, this 15th day of June A.D., 1984.

BETTY CONWAY, County Clerk
Comanche County, Texas

by: Billie R. Vineyard, Deputy

EXHIBIT I

July 6, 1983

DeLeon Free Press
100 N. Texas
DeLeon, Texas 76444

Comanche Chief
203 W. Grand
Comanche, Texas 76442

Dear Sirs:

Please run the following ad in your classified section for six weeks or until you are advised to cancel it, which ever occurs first.

FOR SALE 154 acres within five miles of DeLeon less than 1/4 miles from Highway 16. This is a Court Ordered sale. Interested persons should address inquiry to: Land P.O.Box 89, Comanche, Texas 76442 persons making inquiry will be contacted regarding inspection of the property and making of a bid.

Thank you.

Sincerely,

BEN D. SUDDERTH, ATTORNEY
BDS/lg

UNITED STATES DISTRICT COURT

Transcript dated November 3, 1983

Page 20, lines 3 through 23:

MR. HARDIN: Well, that hearing we had on the homestead, well, St. Clair was going the farm was homestead, which I was wanting to go the farm is my business homestead. The house and lot in DeLeon is my homestead, but the farm is my business homestead. And, of course, the Texas constitution covers both of them just alike. They are both exempt from forced sale.

THE COURT: I haven't looked at the statutes in some time, but I believe there is some difference in a business homestead and a farm being a business homestead. I mean, these lawyers here are more up on that, but I believe there's a complete -- I believe there is a difference in -- if you are in a grocery business down here, well, that's a business. You can have a business homestead.

MR. HARDIN: But if farming is not a business, well, I'm in the wrong business.

THE COURT: Well, I think there's different statutes that

are applicable or different law that's applicable from a business homestead, and I know these laws have been changed, and I haven't looked at this in many a day. So your lawyers are a little more up on this.

EXHIBIT K

UNITED STATES BANKRUPTCY COURT
PROCEEDINGS

March 9, 1984

11:40 a.m.

Transcript page 4, lines 12 through 25 and
page 5, lines 1 through 25:

THE COURT: All right. Mr. Hardin, are you here representing yourself?

MR. HARDIN: No, sir. I was — I was wanting to get an extension. I have an attorney hired but he had other commitments today and couldn't make it here.

THE COURT: Who's your attorney?

MR. HARDIN: He was Ralph Perry Miller. I believe that's his name.

THE COURT: Did you make Mr. Colvin aware of the fact that you had retained counsel?

MR. HARDIN: Yes. Out — out in the hall.

THE COURT: I mean prior to today?

MR. HARDIN: No. I just got him yesterday.

THE COURT: Where does Mr. Perry live?

MR. HARDIN: He lives in Dallas.

THE COURT: Do you have his phone number?

MR. HARDIN: I might have. I was aiming to bring it.

THE COURT: Mr. Colvin?

MR. COLVIN: Your Honor, the particular Defendant in this proceeding, J. A. Hardin, and he is present in the courtroom. I do not know what interest Mr. Lavoyd Wayne "Bill" Hardin has in the proceeding where a continuance would be appropriate for him to request. The relief prayed for originally was against the Veterans Land Board, which the Court granted, and Mr. J. A. Hardin.

THE COURT: All right. Mr. J. A. Hardin, are you here?

MR. J. A. HARDIN: Yes, sir.

THE COURT: Please come forward.

Do you have an attorney? You may stand there.

Do you have an attorney?

MR. J. A. HARDIN: No, sir. I live in Tennessee and I just got served these papers last Friday afternoon, and I consulted with my attorney in Tennessee Monday, and he told me to find an attorney over here to represent me, and we have found one but the schedule, you know, being like it is, they could not fit — he told us he couldn't fit any — in his schedule

this morning.

THE COURT: I'm going to hear the evidence from the
Trustee.

UNITED STATES DISTRICT COURT

Transcript dated March 9, 1984

Page 10, lines 3 through 12:

Now, as I said, I'm going to hold this hearing in abeyance until I see what you are going to do concerning this matter.

But I would -- I know you don't want to have any problems about this, and certainly it wouldn't be in your best interest. I mean, you know, I don't want to hold anybody in contempt of court or contempt of orders and so forth. You know, there's civil contempt, there's criminal contempt, and on a matter of this type, you could be placed in jail until you comply with the Court's order, and that is, signing the deed. I'm just advising you what the consequences can be.

Page 10, lines 18 through 24:

So you ought to get with Mr. Colvin and Mr. McMaster over here and you all work this out because all you are going to do -- it is costing you time and money and expense and inconvenience and could result in some serious consequences. And, if you don't have an attorney and want to talk to an attorney, I can understand that, but you need to get -- of

course, Mr. Colvin is the attorney representing the trustee

Page 16, lines 2 through 20:

THE COURT: Oh, no. Under the magistrate's — under — you have got to convey it to him. I mean, under this order that Judge McClinchey — I mean, Judge McConnell has entered, you have got to convey it to the trustee in bankruptcy. He just holds it for the Court. But you can't go sell it to Mr. Joe Doe out here or something like that or incumber it or anything of that kind.

MR. J. A. HARDIN: You mentioned mortgage. Could I pay off what is against the place?

MR. COLVIN: Your Honor, he cannot. All he can do is buy it. The property is within the jurisdiction of the Court.

THE COURT: It is in the court. That is all subject to the Court. Anything that is going to be done with this piece of property has to be approved by the Court.

Now, that's the reason you need to talk to the trustee in bankruptcy. You can buy the piece of property. You can't buy it for what is against it, I'm sure, because it is worth more than that. But you are going to have — I mean, all the full debts and everything.

UNITED STATES BANKRUPTCY COURT

Transcript dated May 25, 1984

Page 19, lines 24 & 25, Page 20, lines 1 through 13:

CROSS-EXAMINATION

BY MR. HARDIN:

Q. Okay. Mr. McMaster, did you ever receive a phone call from Lavoyd Wayne "Bill" Hardin wanting to pay off this indebtedness?

A. I don't know whether I did or not.

Q. Well, I do, and you did.

A. Well, why don't you testify to that then?

Q. And -- and did you tell him how much it was, or did he ask?

A. Told you that I don't recall such a phone call, Mr. Hardin.

MR. HARDIN: Well, okay. I'd like for the record to show that I did call him and wanted to know what, to the penny, it was to pay off this indebtedness. I was wanting to pay it off, and he would not tell me.

Page 21, lines 7 through 17:

THE COURT: All right. Mr. Hardin, is there any other evidence you wish to offer?

MR. HARDIN: Well, J. A. Hardin also called Mr. McMaster wanting to pay it off, but he wouldn't accept it. He also called Joe Calvin (sic) wanting to pay it off, and he said, We will take the money and the deed but we will not take the money without the deed. So this was — this has tried to be paid off two or three different times completely, and the Trustee would not accept it. The Trustee's attorney would not accept it,

Page 21, lines 22 through 25:

I tried to pay it off, but now everything — the validity of that deed is on appeal in New Orleans, and also the homestead and also the Chapter 7. It's all on appeal. I got the case numbers.

UNITED STATES BANKRUPTCY COURT

Transcript dated June 28, 1985

Page 13, lines 1 through 25, Page 14, line 1:

MR. HARDIN, PRO SE: Okay. Well, I'd like to call Mr. McMaster to the stand.

THE COURT: What do you intend to ask Mr. McMaster about?

MR. HARDIN, PRO SE: If he had received a phone call from me wanting to pay off the indebtedness.

THE COURT: Can you explain to me what that has to do with Mr. Newbern's request for attorney's fees?

MR. HARDIN, PRO SE: Well, see, I sold this property to J. A. Hardin for the main purpose to stay out of court, to pay the court off, to pay the Trustee off, to pay the attorneys off. I sold the property. I phoned the Trustee to pay it off every bit of it to the penny. He would not accept it. I phoned my ex-wife and she would not accept it.

THE COURT: Well, I think we can speed this matter up. Mr. McMaster, will you stipulate you received a phone call from Mr. Hardin?

MR. McMASTER: I received probably more than one phone call from him over the period of time involved, you know, since I became Trustee. Yes, sir.

THE COURT: Do you remember a phone call that had something to do with what he's talking about?

MR. McMASTER: Yes, sir, I do.

THE COURT: You'll stipulate you received such a phone call?

MR. McMASTER: Yes, sir. I received such a phone call.

EXHIBIT O

The following is a personal affidavit from J. A. Hardin:

"I bought a piece of property from Lavoyd Wayne "Bill" Hardin on 24th day of August, 1983. I paid off the remaining amount of the Veterans Land Board Contract, and received the title January 6, 1984, and was recorded in Erath & Comanche Counties. I was served with papers to appear in court at Fort Worth on March 9, 1984. My attorney in Tennessee told me I would have to get a Texas attorney to represent me. I told this to the judge and told me I would not need one. He told me if I did not sign the deed over I could be found in contempt of court and be put in jail. I have a wife and four small children. It upset them. After the hearing the attorneys got me outside the courtroom and told me if I did not sign the deed they would assure me that I would be put in jail until I decided to sign the deed.

I would have liked to have kept the farm as I was thinking about building a house on it. I asked the judge if I could pay off what was against the place and keep it. The attorney told me I could not.

signed this 27 day of December, 1984

by J. A. HARDIN

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EXHIBIT P

No. 1897 WARRANTY DEED

THE STATE OF TEXAS,)
 KNOW ALL MEN BY THESE
COUNTY OF COMANCHE)
 PRESENTS: That we, Lloyd
L. Hardin and wife Vivian Hardin of the County of Comanche,
State of Texas for and in consideration of the sum of Six
Thousand Seven Hundred Fifty and No/100 - - - DOLLARS to
us in hand paid by The Veterans' Land Board of Texas,
receipt of which is hereby acknowledged and confessed; RE-
CEIVED SEP 1 1955 GENERAL LAND OFFICE have Granted,
Sold and Conveyed, and by these presents do Grant, Sell and
Convey unto the said The Veterans' Land Board of Texas of
the County of Travis, State of Texas all that certain lot, tract
or parcel of land lying and being situated in the Counties of
Comanche and Erath, in the State of Texas, out of the M. V.
Robinson and the T. E. Ely Surveys and being the same land
which V. V. Bell and wife Addie Bell conveyed to Lloyd L.
Hardin by deed dated November 26, 1946, and duly recorded
in Vol. 343, Page 633, Deed Records of Erath County, Texas,
to which reference is here made and said land being described
by metes and bounds according to survey made on the ground

by Ernest Fletes, County Surveyor of Freestone County, on May 26, 1955, in two tracts as follows: FIRST TRACT: BEGINNING at a stake in South Railroad Row Line & West Line of M. V. Robinson Survey; THENCE S. 18 W. 446.7 vrs.; THENCE S. 19 W. 677 varas to a corner fence post at the N.W. corner of the M. M. Dixon land for the S.W. corner of this tract; THENCE S. 71 E. 668 varas following the North line of the M. M. Dixon land and the South line of the T. E. Ely 80 acres (Southern 80 acres) to a stake in channel of Flat Creek, the S.E. corner of a tract of 77 acres conveyed by V. V. Bell et ux Addie Bell to Lloyd L. Hardin as per deed of record in Vol. 343, Page 633 of the Erath County Deed Records.

THENCE following the meanders of Flat creek as follows:

N. 12 W.	118 vrs. a stake
N. 25 E.	76 vrs. a stake
N. 43 E.	105 vrs. a stake
N. 42½ E.	32 vrs. a stake
N. 69 deg. 45' E.	19 vrs. a stake
N. 54 E.	94 vrs. a stake
N. 51 W.	62 vrs. a stake
N. 26 E.	15 vrs. a stake
N. 22 W.	50 vrs. a stake
N. 4 E.	60 vrs. a stake
N. 54 E.	82 vrs. a stake
N. 16 deg. 45' E.	22 vrs. a stake
N. 9 deg. 30' W.	58 vrs. the S.E. corner of the Robinson Survey

THENCE N. 17 deg. 30' E. 299.8 vrs. a stake in South Rail-

road Row; THENCE N. 57 deg. 02 minutes W. 671.7 vrs. along South Railroad R.W. to place of beginning, containing 122.8 acres, more or less. SECOND TRACT: BEGINNING at a stake in North Railroad R. W. Line & West Line of M. V. Robinson Survey; THENCE N. 18 E. 195.5 vrs. to a stake; THENCE S. 70 E. 647 vrs. to a P. O. tree for N.E. Corner of M. V. Robinson Survey; THENCE S. 17 degrees 30 minutes W. 344.5 varas to stake in North Railroad R. W. line; THENCE Along North Railroad Row Line N. 57 degrees 02 minutes W. 671.7 varas to place of beginning; containing 31.5 acres, more or less. MINERAL RESERVATIONS: The grantors herein, Lloyd L. Hardin and wife Vivian Hardin, own an undivided 73.250/146.5 interest in and to the oil, gas, and minerals in and to the above-described tracts of land, together with the exclusive right to lease the entire premises herein conveyed for oil, gas, and mineral purposes, without the joinder and consent of the other mineral and/or royalty owners. All of the grantors' said undivided interest in and to the oil, gas, and minerals, together with grantors' exclusive right to lease said premises for oil, gas, and mineral purposes, is hereby expressly conveyed unto The Veterans' Land Board of Texas, its successors and

assigns forever, no part of same being reserved by the said grantors. The remainder of the oil, gas, and minerals in and to the tracts of land herein conveyed is held and vested as follows: An undivided $14.125/146.5$ interest in the oil, gas, and minerals is owned by H. K. Galloway and wife Viola Galloway; an undivided $22.500/146.5$ interest in the oil, gas, and minerals is owned by Edgar Galloway and wife Vivian Galloway; An undivided $36.625/146.5$ interest in the non-participating royalty only in and to the oil, gas, and minerals is owned by S. C. Price and wife Lillie Price. The above-described mineral interests were created in conveyances and/or reservations executed, delivered, and recorded prior to June 6, 1949, as follows: (1) Mineral deed from M. E. Galloway and wife H. K. Galloway to H. K. Galloway dated February 5, 1925, recorded in Vol. 239, Page 186, Deed Records of Erath County, Texas. (2) Warranty deed from M. E. Galloway et ux to N. B. Benson, dated February 5, 1926, recorded in Vol. 209, Page 171, Deed Records of Erath County, Texas. (3) Warranty deed from N. B. Benson et ux to S. C. Price, dated February 10, 1928, recorded in Vol. 211, Page 247, Deed Records of Erath County, Texas. (4) Warranty deed from S. C. Price et ux to E. O. Bell,

dated April 12, 1945, recorded in Vol. 286, Page 40, Deed Records of Erath County, Texas. (5) Warranty deed from E. O. Bell et ux to V. V. Bell, dated October 8, 1945, recorded in Vol. 287, Page 584, Deed Records of Erath County, Texas. (6) Warranty deed from V. V. Bell et ux to Lloyd L. Hardin, dated November 26, 1946, recorded in Vol. 343, Page 633, Deed Records of Erath County, Texas. (7) Declaration of Mineral Interest executed between H. K. Galloway and wife Viola Galloway, Edgar Galloway and wife Aurelia Galloway, Lloyd L. Hardin and wife Vivian Hardin, and S. C. Price and wife Lillie Price, dated September 11, 1948, and recorded in Vol. 348, Page 329, Deed Records of Erath County, Texas. TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging unto the said The Veterans' Land Board of Texas, its successors and assigns forever; and we do hereby bind ourselves, our heirs, executors and administrators, to Warrant and Forever Defend all and singular the said premises unto the said The Veterans' Land Board of Texas, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

Witness our hands at DeLeon, Texas this 22nd day of
September, A.D. 1955.

(\$7.70 R.S.)

Loyd L Hardin

Vivian Hardin

THE STATE OF TEXAS,)

COUNTY OF COMANCHE)

BEFORE ME, a Notary Public,

in and for Comanche County,

Texas, on this day personally appeared Lloyd L. Hardin and
Vivian Hardin, his wife, both known to me to be the persons
whose names are subscribed to the foregoing instrument, and
acknowledged to me that they each executed the same for the
purposes and consideration therein expressed, and the said
Vivian Hardin, wife of the said Lloyd L. Hardin having been
examined by me privily and apart from her husband, and having
the same fully explained to her, she, the said Vivian Hardin
acknowledged such instrument to be her act and deed, and she
declared that she had willingly signed the same for the purposes
and consideration therein expressed, and that she did not wish
to retract it. GIVEN UNDER MY HAND AND SEAL OF
OFFICE, This 22nd day of September, A.D. 1955.

(Seal)

Frederick G. Harmon
Notary Public, Comanche
County, Texas.

Filed for record on the 1st day of October, A.D. 1955 at
9:00 o'clock A.M.

Recorded on the 4th day of October, A.D. 1955 at 1:20
o'clock P.M.

Signed by LINDA RIPPETOE, Deputy

Hazel Streety, County Clerk.

CLERK'S CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF COMANCHE)

I, Betty Conway, Clerk of the County Court of Comanche
County, Texas, do hereby certify that the above and foregoing
is a true and correct copy of

1. Warranty Deed

as same appears of record in volume 284, Page 316 of the Deed
Records of Comanche County, Texas

Given under my hand and seal of office in the City of
Comanche, Comanche County, Texas, this 3rd day of June
A.D., 1986.

BETTY CONWAY, County Clerk
Comanche County, Texas

Signed by VIANN MELOT, Deputy

The Business Homestead

The head of a house who has a profession or business can have a business homestead, which may be part of the residence or separate from it. The business homestead is likewise exempted from forced sale. The premises claimed as a business homestead must be reasonably suited to the transaction of the business or profession. Therefore, one may have a rural homestead where he and his wife and children live, and simultaneously have a business homestead in town. Conversely, he may have an urban homestead where he and his wife and children live, and also have a rural business homestead.

Along with the business homestead, the equipment and machines necessary for carrying on the business or profession of the head of the family are exempt from forced sale. Moreover, the head of the house may carry on more than one profession or business in the business homestead, and the appurtenances of each would be exempt. The head of the house cannot have two different businesses or professions in two different places and claim both places as business homesteads. He can have the exemptions for only one business homestead.

Tools of any lawful trade when they are used by the owner are exempt. Even though the owner may cease using his trade tools temporarily, such as when he goes on vacation, this does not change the exempt status of the tools.

It is this state's policy that a man must be protected in the ownership and use of his home and in his means of making a living for himself and his family.

Exerpt from *TEXAS LAW in layman's language*
by Ralph Walton

Library of Congress Catalog Card

Number 75-18201 (ISBN0-87201-824-5)

Certification of Service

I, Lavoyd Wayne "Bill" Hardin, pro-se,
certify that three copies of the fore-
going supplement appendix was mailed by
first class mail to respondent's attorney,
Gilbert and Colvin, 1035 InterFirst Tower
Fort Worth, Texas 76102.

Signed this 6th day of March, 1987.

Lavoyd Wayne "Bill" Hardin Pro-se

Lavoyd Wayne "Bill" Hardin, pro-se

Route 1, Box 127A

DeLeon, Texas 76444

Telephone (817) 893-2686